

## SENATE BILL NO. 337

INTRODUCED BY WEINBERG, JOPEK, FACEY

A BILL FOR AN ACT ENTITLED: "AN ACT ~~REMOVING~~ REVISING RESTRICTIONS ON CONSERVATION EASEMENTS ON STATE LAND; PROVIDING FOR THE TERM OF CONSERVATION EASEMENTS ON STATE LAND; PROVIDING THAT TRADITIONAL CLASSIFIED USES MAY BE MAINTAINED; PROVIDING THAT A CONSERVATION EASEMENT ON STATE LAND MAY BE HELD BY A GOVERNMENTAL ENTITY OR A QUALIFIED PRIVATE ORGANIZATION; AND AMENDING SECTION 77-2-101, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 77-2-101, MCA, is amended to read:

**"77-2-101. Easements for specific uses.** (1) Upon proper application as provided in 77-2-102, the board may grant easements on state lands for the following purposes:

(a) schoolhouse sites and grounds;

(b) public parks;

(c) community buildings;

(d) cemeteries;

(e) conservation purposes AS PROVIDED IN SUBSECTION (3):

~~—— (i) to the department of fish, wildlife, and parks for parcels that are surrounded by or adjacent to land owned by the department of fish, wildlife, and parks as of January 1, 2001;~~

~~—— (ii) to a nonprofit corporation for parcels that are surrounded by or adjacent to land owned by that same nonprofit corporation as of January 1, 2001; and~~

~~—— (iii) to a nonprofit corporation for the Owen Sowerwine natural area located within section 16, township 28 north, range 21 west, in Flathead County; and~~

(f) ~~for~~ other public uses.

(2) The board may grant easements on state lands for the following purposes:

(a) right-of-way across or upon any portion of state lands for any public highway or street, any ditch, reservoir, railroad, private road, or telegraph or telephone line, or any other public use as defined in 70-30-102;

or

(b) any private building or private sewage system that encroaches on state lands.

(3) (A) A CONSERVATION EASEMENT GRANTED PURSUANT TO THIS SECTION:

(I) MAY BE GRANTED IN PERPETUITY OR FOR A TERM OF YEARS;

(II) MAY BE HELD ONLY BY A GOVERNMENTAL ENTITY OR A QUALIFIED PRIVATE ORGANIZATION AS DEFINED IN 76-6-104; AND

(III) MUST BE SUBJECT TO 77-2-304.

(B) UNLESS THE BOARD PROVIDES A COMPELLING REASON, CONSERVATION EASEMENTS SHOULD ALLOW:

(I) TRADITIONAL CLASSIFIED USES DESCRIBED IN 77-1-401, INCLUDING TIMBER, GRAZING, AND AGRICULTURAL USES THAT WERE IN PLACE PRIOR TO THE EASEMENT BEING ISSUED; AND

(II) GENERAL RECREATION USES AS PROVIDED IN TITLE 77, CHAPTER 1, PART 8."

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